IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

WRIT PETITION NO. 5955 OF 2006.

The Phoenix Mills Ltd. .. Petitioner.
V/s.
Mrs. Smita Mukesh Shah. .. Respondent.

Shri P.K. Dhakephalkar with R.D. Suvarna for the petitioner.

Shri Girish S. Godbole for the respondent.

CORAM : V.C.DAGA, J.

DATED : 20.9.2006.

P.C. :

. Heard learned Counsel for the parties.

Perused petition.

2. Shri Dhakephalkar, learned Senior Counsel urged that only one question which needs to be canvassed is that the Court below did not comply with the directions given by this Court in the earlier remand order. However,he could not take his submission to the logical end. No other question was argued by him.

3. Having heard Shri Dhakephalkar, no case is made out to interfere with the impugned order. The view taken by the Courts below is a reasonable and possible view. By no stretch of imagination order impugned could be said to be perverse. Petition is, therefore, liable to be dismissed. (see Laxmikant

vs. Pratapsingh (1995) 6 SCC 576).

4. At this stage, learned Counsel for the petitioner prays for 8 weeks time to approach higher Court. Learned Counsel for the respondents has no objection in granting such time, subject to the petitioner filing an undertaking in this Court within 2 weeks from today, to the effect, that in the event, petitioner fails in the higher forum, he shall vacate suit premises and hand over vacant and peaceful possession thereof to the respondent without any excuse or demure and that he will not create third party interest in respect of suit premises.

5. Needless to mention that after a period of 8 weeks, it would be open for the respondent- decree holder to execute the decree in accordance with law.

6. In the result, petition is dismissed in limine in terms of this order. No order as to costs.

(V.C.DAGA,J.)